

**Guaranty Agency Total and Permanent Disability Discharge Assignment Procedures
Attachment to June 2013 Electronic Announcement (Updated October 2013)**

PROCEDURES

	<u>Page</u>
Summary of Changes – June 2013	2
1. ASSIGNMENT CRITERIA	3
2. FILING A CLAIM/SCHEDULE OF ASSIGNMENTS	3
3. CREDIT BUREAU AND NSLDS REPORTING	4
4. OPERATIONAL INSTRUCTIONS	4
4.A ELECTRONIC ASSIGNMENT FILE SUBMISSIONS VIA SAIG	5
Figure a. TPD DISCHARGE ASSIGNMENT LETTER	
Figure b. TPD DISCHARGE ASSIGNMENT TRANSMITTAL FORM	
Figure c. TPD DISCHARGE ASSIGNMENT PROCESS FILES, REPORTS, AND SAIG MESSAGE CLASSES	
4.B ASSIGNMENT FORM (MANUAL/PAPER SUBMISSION)	8
Figure d. TPD DISCHARGE ASSIGNMENT LETTER	
5. HARD COPY FILES	9
5.A Promissory Notes/MPNs	11
5.B Electronically Signed Promissory Notes/MPNs	12
5.C Indemnification Agreements	12
Figure e. Lost Promissory Note	
Figure f. Damaged/Initialed Promissory Note	
5.D Disbursement Records	15
5.E Payment Information	16
6. REGULATORY REQUIREMENTS	17
7. MAINTENANCE OF RECORDS	17
8. ACCOUNT ADJUSTMENTS AND INVOLUNTARY PAYMENTS	17
9. LOAN RETURN	19
10. CORRESPONDENCE RECEIVED AFTER ASSIGNMENT	19
11. BANKRUPTCY AND LITIGATION	20

APPENDICES

APPENDIX I – Assignment & Referral File Format

APPENDIX II – Assignment & Referral Form

APPENDIX III – SAIG Record Specifications

APPENDIX IV – Manifest Information

APPENDIX V – Co-made Loans and Endorsers

**Guaranty Agency Total and Permanent Disability Discharge Assignment Procedures
Attachment to June 2013 Electronic Announcement (Updated October 2013)**

Summary of Changes – June 2013

We have made the following changes to this procedures document:

- Removed all references and appendices related to the TPD application, including the referral of TPD applications. Applicants will submit TPD applications directly to the Nelnet Total and Permanent Disability Servicer. Guaranty agencies will not include applications in the assignment package.
- Included information about the loan holder refunding all payments received after notification of a TPD discharge.
- Included references to the new Loan Holder Notification File. For complete information about the Loan Holder Notification File, refer to our second Electronic Announcement ([May 24, 2013](#)) posted to the IFAP Web site.
- Included updated contact information and address for the assignment process.
- Re-formatted the document by adding a table of contents and removing appendices that no longer apply.
- Removed the appendix for Veterans Disability Discharge and the process for referring veteran TPD applications. **Note:** If the borrower qualifies for discharge based on documentation from the VA, the loans are not assigned to the Department of Education (the Department). We will notify loan holders of the effective date of the VA determination. Upon receiving this notification, the loan holder discharges the borrower's loans and returns to the sender any payments received on or after the effective date of the VA determination that supported the borrower's eligibility for discharge.

In addition, we changed the individual sections as follows:

Section 1: Revised text and added information about veterans disability discharge

Section 2: New text

Section 3: Minor text updates

Section 4a: Revised text and new mailing address

Section 4b: Minor text updates

Section 5: Revised text and new mailing address

Section 5a: Revised text

Section 5b: Revised text

Section 5c: Minor text updates

Section 5d: Revised text

Sections 6-7: No change

Section 8: Renamed and revised text

Section 9: Minor text updates and new mailing address

Section 10-11: New mailing address

**Guaranty Agency Total and Permanent Disability Discharge Assignment Procedures
Attachment to June 2013 Electronic Announcement (Updated October 2013)**

1. ASSIGNMENT CRITERIA

Pursuant to 34 CFR 682.402(c)(8)(E), a guaranty agency (agency) must assign to the U.S. Department of Education (the Department) all loans on which the guaranty agency pays a claim for discharge due to total and permanent disability (TPD Discharge). The guaranty agency may not assign a loan with a zero (0.00) balance.

Exceptions:

- a. If the loan was paid in full through involuntary payment within 30 days of the guaranty agency's receipt of notice from us that the borrower has submitted a materially complete TPD discharge application, you may assign the loan to the Department with a zero balance. Please contact the TPD Servicer before assigning a loan with a zero (0.00) balance.
- b. If the borrower is applying for discharge of joint consolidation and PLUS loans with disabled co-makers, the guaranty agency ***must not*** assign the loan to the Department. **See APPENDIX V – Co-made Loans and Endorsers**

Veterans TPD Discharge

Veteran borrowers will be considered eligible for discharge due to total and permanent disability (TPD) if the veteran provides documentation from the Veterans Administration (VA) showing that the veteran has been determined to be unemployable due to a service-connected condition.

If the borrower is approved for TPD Discharge under the special qualifications for veterans, the guaranty agency does not assign the loan to the Department. Instead, the Department will notify the guaranty agency of each veteran borrower's eligibility for discharge through the Loan Holder Notification File sent via e-mail in a password-protected .zip file.

Upon notification by the Department that the borrower qualifies for a TPD discharge, the guaranty agency notifies the borrower of the discharge and refunds any payments that were made on or after the effective date of the grant of disability by the VA.

2. FILING A CLAIM/SCHEDULE OF ASSIGNMENTS

If the FFEL holder receives notice from the Department that the borrower is totally and permanently disabled, it must file a claim with the guaranty agency within 60 days of receiving that notice.

If the claim meets the conditions specified in 34 CFR 682.402(g)(1) and 682.406, the guaranty agency must pay the claim within 45 days of the date that it is submitted by the lender to the guaranty agency. The amount of the claim payment must include any payments that the loan holder must refund to the sender.

The guaranty agency must then assign the loan to us within 45 days of paying the lender's claim and receiving reimbursement payment, or, if the loan is held by the guaranty agency, the agency must assign the loan to us within 45 days of receiving notice that the Department has approved the borrower's application for TPD discharge and receiving reimbursement payment.

**Guaranty Agency Total and Permanent Disability Discharge Assignment Procedures
Attachment to June 2013 Electronic Announcement (Updated October 2013)**

3. CREDIT BUREAU AND NSLDS REPORTING

As instructed in the Electronic Announcement posted to ifap.ed.gov on July 5, 2006 (<http://www.ifap.ed.gov/eannouncements/0705CDDCCreditBureau.html>), guaranty agencies should report to credit bureaus as follows:

- a. ***Non-defaulted loan held by the lender*** – The lender reports Status Code “05” and the Payment Rating that is consistent with the current or delinquent status of the account on the date a lender submits a claim to the guarantor or receives payment from the guarantor (i.e., 0, 1, 2, 3, 4, 5 or 6). Status Code 05 is defined as “Account transferred to another office” and the Payment Rating indicates that the payment for this month was current or delinquent.

No further reporting by the lender would be required, as Status Code 05 is a final status. Since the Department will be responsible for the loan after assignment, it is not necessary to require further reporting by the lender.

A Payment History Profile Grid that represents the accurate account history should be retained for the account.

- b. ***Defaulted loan held by the guarantor*** – The Guaranty agency reports Status Code “DA”, which is defined as “Deletes Entire Account.” Since the claim is being filed with the Department and the Department will be responsible for further processing of the loan, as well as credit bureau reporting, the guaranty agency must delete the original Collection Account reported. Otherwise, the borrower will have two Collection Accounts on their credit report: one from the guaranty agency and one from the Department.

Once the account is deleted by the guaranty agency, no further reporting would be required.

The guaranty agency must also properly update the National Student Loan Data System (NSLDS) to reflect that a loan has been assigned to the Department. After receipt of a disability reinsurance payment and after verifying that the loan had previously been reported to NSLDS, the guaranty agency should report the loan to NSLDS as “DI” (defined as Disability) or “DS” (defined as Defaulted then Disability) with a \$0 balance. When a guaranty agency assigns a loan to the Department, the guaranty agency reports to NSLDS a code number for the entity that will receive the loan. The TPD Servicer’s NSLDS identification information is as follows:

<i>Servicer Name</i>	<i>NSLDS Name</i>	<i>ED Servicer Code</i>
Nelnet Total and Permanent Disability Servicer	DEPT OF ED/TPD	582

Note: If a loan is not assigned to the Department, the loan holder is responsible for credit bureau and NSLDS reporting.

4. OPERATIONAL INSTRUCTIONS

Guaranty Agencies may assign loans to the Department by electronic file or by paper form.

**Guaranty Agency Total and Permanent Disability Discharge Assignment Procedures
Attachment to June 2013 Electronic Announcement (Updated October 2013)**

4.A ELECTRONIC ASSIGNMENT FILE SUBMISSIONS VIA SAIG

All TPD electronic assignment files must be transmitted via the Student Aid Information Gateway (SAIG). **See APPENDIX I – Assignment File Format.** When transmitting a TPD Discharge Assignment file to the Department, via SAIG, a guaranty agency must include an N05 SAIG Header record, a Batch (BAT) record, the TPD Discharge Assignment file, and an N95 SAIG Trailer record.

For guaranty agencies that use EDconnect PC-based software for transmitting data via SAIG, the SAIG N05 Header and N95 Trailer records are created automatically. Guaranty agencies that use EDconnect software, however, must create and include a Batch (BAT) record. Mainframe agencies that do not use EDconnect software will need to create and include a SAIG N05 Header record, a Batch (BAT) record, and an N95 Trailer record. If the Batch (BAT) record is not present, the file will be rejected.

Guaranty agencies should transmit only one TPD Discharge assignment file, via SAIG, per day. In addition to the SAIG N05 Header record, SAIG Batch (BAT) record, and SAIG N95 Trailer record, each assignment file must consist of an Assignment File Header Record, Assignment File Detail Records, and an Assignment File Trailer Record. **See APPENDIX III – SAIG Record Specifications** for further detail.

Guaranty agencies should send the accompanying hard copy documentation for each assignment file to the TPD Servicer.

Send assignments via overnight or private courier to:

U.S. Department of Education
121 South 13th Street, Suite 201
Lincoln, NE 68508

Guaranty agencies should include the following with the hard copy documentation:

- a. The original TPD Discharge Assignment Letter, that also includes the file creation date/time stamp (Figure a)

The Assignment Letter must be on guaranty agency letterhead and contain an original signature (stamped signatures are not allowable).

- b. The TPD Discharge Assignment Transmittal Form, including the GA Code and file creation date/time stamp (Figure b).

In addition to including the hard copy transmittal form and assignment letter with the assignment file, the guaranty agency should e-mail a copy of the transmittal form and assignment letter to the TPD Servicer at disabilityinformation@nelnet.net. The copy can be in .pdf or MS Word compatible formats (.doc, .docx, .rtf, .txt...etc).

NOTE: The file creation date/time stamp should be exactly the same on the TPD Discharge Assignment Transmittal Form, and the SAIG Batch (BAT) record on the file sent through SAIG. The file creation date/time stamp should also match the date provided on the Assignment Letter.

**Guaranty Agency Total and Permanent Disability Discharge Assignment Procedures
Attachment to June 2013 Electronic Announcement (Updated October 2013)**

Figure a.

TPD DISCHARGE ASSIGNMENT LETTER
(Agency Letterhead)
(DATE)
U.S. Department of Education XXXX XXXX
To Whom It May Concern:
The (LEGAL NAME OF YOUR AGENCY) hereby assigns to the United States Department of Education its rights, title, and interest in those student loans accepted from the TPD Discharge Assignment File transmitted, via the Student Aid Internet Gateway (SAIG), on <u>Date (CCYYMMDD)</u> at <u>Time (HHMMSS)</u> .
Sincerely,
(NAME AND TITLE OF AGENCY OFFICIAL)

Figure b.

TPD DISCHARGE ASSIGNMENT TRANSMITTAL FORM FOR SAIG TRANSMISSIONS ONLY
Date: _____
Agency Name: _____
Agency Code: _____
Contact Person: _____ Phone Number: _____
Detail Record Count: _____
<u>BAT ID INFORMATION</u>
GA Code: _____
GA's TG Number: TG _____

**Guaranty Agency Total and Permanent Disability Discharge Assignment Procedures
Attachment to June 2013 Electronic Announcement (Updated October 2013)**

Message Class: ASGTPDIN

File Creation Date (CCYYMMDD): _____

File Creation Time (HHMMSS): _____

If the file is a replacement file, check below, and indicate the SAIG information of the file it is replacing:

Replacement File ()

File Creation Date (CCYYMMDD): _____

File Creation Time (HHMMSS): _____

File Errors and File Level Error Report

The Department will conduct an *initial error/preliminary editing process* to ensure that the file is readable and that the detail records add up to the totals in the trailer record. If the file is unreadable or the detail records do not add up to the totals in the trailer record, the assignment file will be rejected in its entirety. The guaranty agency will receive a File Level Error Report indicating the reason the file was rejected (Message Class ASGERROP).

In the initial error/preliminary editing process, the Department also reviews the data for each loan on the assignment file to ensure that essential information is included and that the data conforms to various standards designed to ensure that the data is accurate and complete. Any records that fail for system edits or NSLDS checks will be returned to the guaranty agency. For example, if an assignment file contains 100 records and 90% of records fail, we will reject the 90% that failed and accept the remaining 10%. The guaranty agency will receive the File Level Error Report (Message Class ASGERROP).

The guaranty agency should try to send another assignment file with corrected records via SAIG as soon as possible. In this instance, the guaranty agency should e-mail a new TPD Discharge Assignment Transmittal Form and TPD Discharge Assignment Letter to the TPD Servicer at disabilityinformation@nelnet.net. The new transmittal form and assignment letter should include the new file creation date/time stamp of the corrected file being sent via SAIG.

If we do not receive corrected assignment records within (10) business days, we will return all accompanying hard copy documentation to the guaranty agency. The guaranty agency will receive the hard copy documentation for all rejected debts by overnight mail or private courier service. The documentation will have a cover sheet indicating the reason(s) for the rejection. If you have not already done so, please contact the TPD Servicer to confirm a physical address where hard copy documents can be mailed to via overnight or private courier service.

Document Verification

The Department will match the loan documents against the electronic loan records already received for that assignment file and use them to verify the data on that file. This is known as the *document verification process*. During this process, the Department ensures the original promissory note (or a

**Guaranty Agency Total and Permanent Disability Discharge Assignment Procedures
Attachment to June 2013 Electronic Announcement (Updated October 2013)**

certified copy of a promissory note, or, if neither is available, an indemnification agreement) and the required Stafford and PLUS disbursement documents (see Section 5.D) are received for each record. If the required documentation is missing or unacceptable, the loan will not be accepted for assignment.

System Edits

All debts will then go through the final check, known as the system edits or the load edits.

Figure c.

TPD DISCHARGE ASSIGNMENT PROCESS FILES, REPORTS, AND SAIG MESSAGE CLASSES		
<u>SAIG Message Class Description</u>	<u>Message Class</u>	<u>LRECL</u>
TPD Discharge Assignment File (sent from GAs to the Department)	ASGTPDIN	1520
TPD File Level Error Report	ASGERROP	N/A

4.B ASSIGNMENT FORM (MANUAL/PAPER SUBMISSION)

If a guaranty agency chooses not to use SAIG and submits the assignment manually (a.k.a. 'on paper'), the guaranty agency must include the completed TPD Discharge Assignment Form. See **APPENDIX II – Assignment Form**. The form must be accompanied by the paper files (hard copy files). See Section 5. Each group of files you submit must be in alphabetical order and include:

- A manifest. See **APPENDIX IV –Manifest Information**
- If an Agency official signs (original signature required) each form, it is not necessary to also submit an assignment letter. However, if you are submitting so many forms that signing each one would be burdensome, you may submit an assignment letter, with an original signature by an Agency official on Agency letterhead, as indicated in Figure d. on the following page. A copy of the manifest must be attached to the letter.

In addition to including the hard copy transmittal form and assignment letter with the assignment file, the guaranty agency should e-mail a copy of the transmittal form and assignment letter to the TPD Servicer at disabilityinformation@nelnet.net. The copy can be in .pdf or MS Word compatible formats (.doc, .docx, .rtf, .txt...etc).

Note: If any of the above documentation is missing, all of the loans may be returned for correction.

**Guaranty Agency Total and Permanent Disability Discharge Assignment Procedures
Attachment to June 2013 Electronic Announcement (Updated October 2013)**

Figure d.

TPD DISCHARGE ASSIGNMENT LETTER
(Agency Letterhead)
(DATE)
U.S. Department of Education P.O. Box 87130 Lincoln, NE 68501-7130
To Whom It May Concern:
The (LEGAL NAME OF YOUR AGENCY) hereby assigns to the United States Department of Education its rights, title, and interest in those student loans listed in the enclosure to this letter.
Sincerely,
(NAME AND TITLE OF AGENCY OFFICIAL)
Enclosure

Manual submissions are subject to the same processing applied to SAIG submissions: document verification and system/load edits.

As with SAIG submissions, if loans are rejected, you must make the corrections and resubmit them as though you are submitting them for the first time. This means submitting all the necessary documentation, with original signatures (assignment forms, discharge applications, etc.).

5. HARD COPY FILES

The hard copy files (paper files) must include promissory notes, loan applications, if applicable, and disbursement documentation in connection with Stafford and PLUS loans (see Section 5.D Disbursement Records). In the case of an electronically signed promissory note, the guaranty agency must include the name and address of the entity in possession of the original electronic note (see Section 5.B Electronically Signed Promissory Notes/MPNs). In accordance with record retention requirements, the guaranty agency must retain records for at least three years after a loan is satisfied (see Section 7). In the case of a TPD discharge, a loan is satisfied after the borrower has completed the post-discharge monitoring period.

If the guarantor has obtained a judgment, the judgment should be transferred to the Department in accordance with the laws of the applicable State. To transfer judgments to the Department, contact the TPD Servicer to coordinate the judgment transfer. Guaranty agencies must include a certified copy of the judgment or a certified transcript of judgment. Additionally, in order to enforce the judgment as a Federal judgment, in the event that the account is not eligible for a TPD discharge, guaranty agencies must also include a document that assigns the judgment to the Department as indicated in the following sample.

**Guaranty Agency Total and Permanent Disability Discharge Assignment Procedures
Attachment to June 2013 Electronic Announcement (Updated October 2013)**

(Agency Letterhead)

DATE

Subject: <Name of plaintiff> <could be the guarantor or, for state agencies, the name of the STATE> Plaintiff

v. _____, Defendant

<Name of> COURT OF _____

<LAW DIVISION - _____ COUNTY>

DOCKET NO.: _____

To Whom It May Concern:

The (name of plaintiff) has obtained a judgment in the above-named case, and for good and valuable consideration, receipt of which is hereby acknowledged, hereby irrevocably assigns to the United States Department of Education (the Department) all <name of plaintiff>'s rights, title, and interest in this judgment. By this assignment, <name of plaintiff> intends that the Department shall be duly able to enforce this judgment, and the undersigned, as authorized representative of <name of plaintiff> hereby certifies that <name of plaintiff> has filed such documents with the clerk of court as required by <name of state> in order to complete this assignment to the Department>.

This Assignment is effective on mm/dd/yyyy.

<Name of plaintiff> hereby authorizes the Department, or any party acting on the Department's behalf, to execute any documents needed to assign the judgment to the Department.

(NAME AND TITLE OF AGENCY OFFICIAL)

For defaulted loans, guaranty agencies must retain and maintain the following documents, relating to the cohort default rate appeal process: Documentation of the date the loan entered repayment; Lender level collection documentation that is submitted to the guaranty agency by the lender at the time the lender submits a request for claim payment; Lender level pre-claims assistance requests (including resubmitted and supplemental requests); and Payment histories (prior to default). Guaranty agencies do not have to include these documents in the hard copy files submitted to the Department. Guaranty agencies, however, must be able to readily furnish copies of these documents, if requested by the Department or, within the established deadlines, if requested by a school appealing its cohort default rate.

Guaranty agencies must send all hard copy files, by a private delivery service, to:

U.S. Department of Education
121 South 13th Street, Suite 201
Lincoln, NE 68508

Due to a history of damaged/ripped packages shipped via private carriers and the US Mail, the Department has developed additional safeguards related to data exchanged between the Department and our data exchange partners. The new requirements for packaging TPD-related documents bring TPD

**Guaranty Agency Total and Permanent Disability Discharge Assignment Procedures
Attachment to June 2013 Electronic Announcement (Updated October 2013)**

packaging standards in line with the Department's established policies on mailing Personally Identifiable Information (PII).

Guaranty agencies must double package all sensitive (i.e. contains PII) documents in opaque materials that are approved by the shipping agency (DHL, FedEx, UPS, USPS, etc.). Both the "TO" and "FROM" addresses must be included on both the inner and outer packages. Shipping agents must have the capability of tracking the shipment's status and must require signatures upon receipt. The package should not identify the sensitivity of the contents. Additionally, guaranty agencies must be able to identify the contents of the packages/boxes that are sent to Lincoln, NE so that if a package or a box is not received in Lincoln, NE the guaranty agency would be able to identify the contents of the package or box and the affected borrowers (names/SSNs).

The files must be in alphabetical order, but do not have to be divided up into files for each borrower; that is, if you can only produce a batch of promissory notes, a batch of applications, etc., the TPD Servicer will break them up into files. However, if your files already exist, please submit them in alphabetical order.

5.A PROMISSORY NOTES/MPNs

If an original promissory note is not available, a "certified true copy" may be substituted. The copy must include the front and back of the promissory note, have the following language typed or stamped directly on the copy, and must then be signed and dated by an agency official:

"I declare under penalty of perjury that the foregoing is a true and correct copy of the original promissory note."

Signature: _____ (Must be an appropriate
Title: _____ Agency official)
Date: _____

We require each loan assigned to us to include a copy of the promissory note under which the loan was made and specific data particular to the loan. A guaranty agency should therefore identify each loan that your agency is assigning to us. If the guaranty agency combines several loans into one "debt", we will reject the assignment. If two or more disbursements were made on a single loan, those disbursements constitute one loan obligation and should be combined and reported as a single loan and a unique debt. This total amount of the disbursement should be indicated in the "Amount of Disbursement" (Positions 279-289 on the assignment file and Box 63 on the Assignment Form). The following are exceptions to this rule:

- A guaranty agency may hold a single promissory note that evidences two different types of loans (e.g., an SLS and a Stafford or an **unsubsidized Stafford and a subsidized Stafford**) made to the same borrower. In these instances, the agency should identify two separate debts as associated with a single promissory note.
- Other exceptions are Master Promissory Notes, where one note may cover several loans, and each loan should be assigned as a separate loan.
- Guaranty agencies may assign multiple loans for one promissory note, in connection with

**Guaranty Agency Total and Permanent Disability Discharge Assignment Procedures
Attachment to June 2013 Electronic Announcement (Updated October 2013)**

consolidation loans, as long as the agency assigns the loan the same way it is reporting the loan to NSLDS.

5.B ELECTRONICALLY SIGNED PROMISSORY NOTES/MPNs

Guaranty agencies must include a copy of the front and back of the electronically signed promissory note or Master Promissory Note (MPN). Each electronically signed promissory note submitted should indicate the date the borrower signed the note electronically and be an exact copy of the printed note that the borrower would have been able to print when the borrower electronically signed the note. The Department is not requiring any other data fields that would not have already been printed on the note.

In cases where a promissory note is missing a signature date and if necessary to resolve a dispute, the Department will require a lender or guarantor to provide a date from its loan records.

The copy of an electronically signed MPN should include a certification in the following format:

"I declare under penalty of perjury that the foregoing is a true and correct copy of the Master Promissory Note." *

Signature: _____ (Must be an appropriate

Title: _____ Agency official)

Date: _____

*Or, in the case of an electronically signed promissory note, this line must state:

"I declare under penalty of perjury that the foregoing is a true and correct copy of the promissory note".

This certification is similar to the certification used for promissory notes, except that in the case of electronically signed notes, the word "original" has been omitted.

If a promissory note or MPN was signed electronically, guaranty agencies **no longer need** to include a sheet of paper with a copy of the electronically signed promissory note/MPN that contains the applicable certification ("I declare under penalty of perjury that the foregoing...").

Guaranty agencies must populate the "Entity in Possession of the Original Electronic Note" field with the six-digit identification number of the lender or servicer that is in possession of the original electronically signed promissory note/MPN, followed by two zeroes, **or** (for cases where the guaranty agency is in possession of the original electronic note), the five-character GA Code, followed by three zeroes.

5.C INDEMNIFICATION AGREEMENTS

If both the original and copy of the promissory note are lost, the guaranty agency must include the INDEMNIFICATION AGREEMENT FOR THE ASSIGNMENT OF FEDERAL FAMILY EDUCATION LOAN WITH LOST PROMISSORY NOTE (see Figure e.). The purpose of this indemnification agreement is to enable the guaranty agency to assign loans with a lost or missing promissory note, except in cases of known fraud.

We will accept an indemnification agreement in lieu of a promissory note, but only if the language in Figure e is used.

**Guaranty Agency Total and Permanent Disability Discharge Assignment Procedures
Attachment to June 2013 Electronic Announcement (Updated October 2013)**

Indemnification Agreements should be submitted on agency letterhead.

Guaranty agencies may use an electronic signature or a signature stamp for the guaranty agency official, but it must be initialed by the official, in a different color ink. Additionally, all information must be completed on the indemnification agreement.

The inclusion of an Indemnification Agreement does not exclude the requirement that agencies submit disbursement documentation in connection with Stafford and PLUS loans (see Section 5.D Disbursement Records).

Figure e.

**INDEMNIFICATION AGREEMENT FOR THE ASSIGNMENT OF FEDERAL
FAMILY EDUCATION LOAN WITH LOST PROMISSORY NOTE**

Borrower's Current Name: _____
(Last, First, Middle)

Borrower's Previous Name: _____
(Last, First, Middle)

Borrower's Correct SSN: _____

First Disbursement Date: _____

Last Disbursement Date: _____

Total Disbursement Amount: _____

In assigning Federal Stafford Loans/Supplemental Loans for Students/(PLUS Loans/Consolidation Loans to the Secretary of Education (hereinafter "the Secretary"), the _____ (hereinafter "Guaranty Agency") agrees that if any loan assigned to the Secretary by the Guaranty Agency without an original promissory note or certified true copy in good condition should become uncollectible by reason of such lost promissory note, or if the Secretary, in his sole discretion, determines that the loan cannot be enforced because of the lost promissory note, the Secretary is entitled to recover from the Guaranty Agency the amount of reinsurance attributable to such loan previously paid to the Guaranty Agency, plus interest from the date the reinsurance was paid. The Secretary may recover amounts due under this agreement by withholding such amounts from any payments due to the Guaranty Agency from the Department of Education.

The Guaranty Agency also agrees that the assignment of any loan covered by this Agreement includes the assignment to the Secretary of any rights held by the Guaranty Agency under any indemnification agreement or warranty executed by the lender in favor of the Guaranty Agency (lender indemnification agreement). In the event the Secretary recovers from the Guaranty Agency the amount paid in reinsurance for a loan covered by this agreement, the Secretary will release to the Guaranty Agency his rights in the applicable lender indemnification agreement.

Date

Signature of Guaranty Agency Official

**Guaranty Agency Total and Permanent Disability Discharge Assignment Procedures
Attachment to June 2013 Electronic Announcement (Updated October 2013)**

Print Name and Title

If the original or copy of the promissory note is damaged or is deficient in some manner, as described, below, the guaranty agency must include an Indemnification Agreement (INDEMNIFICATION AGREEMENT FOR THE ASSIGNMENT OF FEDERAL FAMILY EDUCATION LOAN WITH DAMAGED PROMISSORY NOTE OR PROMISSORY NOTE WITH UNINITIALED ALTERATIONS), Figure f. on the following page, with the original or copy of the promissory note.

In the assignment process, the Department does a document verification process wherein certain information indicated in the promissory note is compared to information on the file or Assignment Form. If there is an alteration to the Name, Social Security Number, or the Loan Amount Requested fields(s) which is not initialed by the borrower, the guaranty agency must submit an Indemnification Agreement, found on the following page, with the original or copy of the promissory note. If not, the loan will be rejected for assignment with an error code of “0002” (Prom note not valid. Check SSN, Signature, and/or copies for certification).

Guaranty agencies may only assign loans to the Department using the correct SSN of the borrower. If a guaranty agency determines that the SSN on the promissory note is incorrect, the guaranty agency must determine the correct SSN and submit the loan for assignment under the correct SSN. Additionally, the agency must submit the promissory note (even though it indicates the incorrect SSN), together with a copy of an Indemnification Agreement. The Indemnification Agreement must indicate the correct SSN. If the guaranty agency cannot determine the correct SSN for the borrower, the agency cannot assign the loan to the Department.

The Indemnification Agreement should be submitted on agency letterhead. Guaranty agencies may use an electronic signature or a signature stamp for the guaranty agency official, but it must be initialed by the official, in a different color ink. Additionally, all information must be completed on the indemnification agreement.

The inclusion of an Indemnification Agreement does not exclude the requirement that guaranty agencies submit disbursement documentation in connection with Stafford and PLUS loans (see Section 5.D Disbursement Records).

Figure f.

INDEMNIFICATION AGREEMENT FOR THE ASSIGNMENT OF FEDERAL
FAMILY EDUCATION LOAN WITH DAMAGED PROMISSORY NOTE OR
PROMISSORY NOTE WITH UNINITIALED ALTERATIONS

Borrower's Current Name: _____
(Last, First, Middle)

Borrower's Previous Name: _____
(Last, First, Middle)

**Guaranty Agency Total and Permanent Disability Discharge Assignment Procedures
Attachment to June 2013 Electronic Announcement (Updated October 2013)**

Borrower's Correct SSN: _____

First Disbursement Date: _____

Last Disbursement Date: _____

Disbursement Amount: _____

In assigning Federal Stafford Loans/Supplemental Loans for Students/PLUS Loans/Consolidation Loans to the Secretary of Education (hereinafter "the Secretary"), the

_____ (hereinafter "Guaranty Agency") agrees that if any loan assigned to the Secretary by the Guaranty Agency without an original promissory note or certified true copy in good condition should become uncollectible by reason of such damaged promissory note or because it contains alterations without the borrower's initials, or if the Secretary, in his sole discretion, determines that the loan cannot be enforced because of the damaged or altered promissory note, the Secretary is entitled to recover from the Guaranty Agency the amount of reinsurance attributable to such loan previously paid to the Guaranty Agency, plus interest from the date the reinsurance was paid. The Secretary may recover amounts due under this agreement by withholding such amounts from any payments due to the Guaranty Agency from the Department of Education.

The Guaranty Agency also agrees that the assignment of any loan covered by this Agreement includes the assignment to the Secretary of any rights held by the Guaranty Agency under any indemnification agreement or warranty executed by the lender in favor of the Guaranty Agency (lender indemnification agreement). In the event the Secretary recovers from the Guaranty Agency the amount paid in reinsurance for a loan covered by this agreement, the Secretary will release to the Guaranty Agency his rights in the applicable lender indemnification agreement.

Date

Signature of Guaranty Agency Official

Print Name and Title

5.D DISBURSEMENT RECORDS

The Department requires disbursement documentation for all Stafford and PLUS loans that were made under an electronically signed promissory note and for all Stafford and PLUS loans that were made under a MPN, regardless of whether the MPN was signed electronically. At this time, the Department is not requiring a guaranty agency to include disbursement documentation for loans made under an individual promissory note with a "wet" signature. However, guaranty agencies must **retain these documents for submission to the Secretary at some future date, if requested.** (See Section 7.)

Guaranty agencies may submit one of the following documents:

- A copy of a roster from the lender to the school that reflects the date and amount of each disbursement. The guaranty agency must redact information that does not pertain to the account being assigned, including any other names, Social Security Numbers (SSNs), and amounts listed on the roster.

**Guaranty Agency Total and Permanent Disability Discharge Assignment Procedures
Attachment to June 2013 Electronic Announcement (Updated October 2013)**

- A copy of a screen print from the lender's database reflecting the date and amount of each disbursement.
- A copy of a screen print from the guaranty agency's database reflecting the date and amount of each disbursement.
- A copy of the Notice of Loan Guarantee and Disclosure Statement that reflects the date and amount of each disbursement.
- A copy of a screen print of the National Student Loan Data System (NSLDS) Loan Summary page. If a guaranty agency chooses this option and submits a screen print of the NSLDS Loan Summary page, it constitutes a confirmation that the guaranty agency's submission to NSLDS is accurate.

While not all the documents listed above reflect the regulatory requirements of 34 CFR 682.409(c)(4)(vii), we have discretion to accept the assignment of a loan without receipt of all of the documents listed in the regulations, and we are exercising that authority for this purpose. However, an agency must retain the documents listed above for submission to us at some future date. (See Section 7.)

5.E PAYMENT INFORMATION

Guaranty agencies must inform the Department of the amount of any payments received after the TPD Date provided in the Loan Holder Notification File. If the Department receives an assignment and there is no payment information attached, the Department will assume that no payments were received.

Payment information should include payments made from any source, including those resulting from Treasury offset and administrative wage garnishment, received after the TPD Date provided in the Loan Holder Notification File. The format for the payment listing/lump sum payment information is as follows:

1. Provide the borrower's name on all pages with payment information. Provide the borrower's SSN (or partial SSN) on at least the first page.
2. Loan holder's name
3. Date of printout or submission of the payment list
4. If you provide a payment listing, provide an itemized list of the amounts of payments with their effective dates and the total amount of the list of payments. (Do not include non-payment transactions such as payment applications to principal and interest, fee applications, etc.)
5. If the payment information you provide includes any payment(s) that you refunded to the borrower, you should indicate the payment amount(s) and effective date(s) of the refund.

Note: Payment information included with the assignment is for the Department's information only. Refunds required under 34 CFR 682.402(c)(8)(C) and 682.402(c)(9)(xxi)(D) must be processed before the loan is assigned to the Department. Payments received on an account *after* it has been accepted for assignment by the Department should be returned to the sender.

6. REGULATORY REQUIREMENTS

It is important that agencies be aware of the requirements contained in 34 CFR 682.414, regarding records, reports, and inspection requirements for guaranty agency programs, as it contains important

**Guaranty Agency Total and Permanent Disability Discharge Assignment Procedures
Attachment to June 2013 Electronic Announcement (Updated October 2013)**

information regarding the retention of records. This section also contains important information regarding the affidavit/certification and testimony requirements, in connection with electronically signed promissory notes/MPNs. The regulations are very specific as to the information that must be included in the affidavit/certification, if requested, and the timeframe for responding to such requests.

It is important that in accordance with record retention requirements, guaranty agencies retain records for at least three years after a loan is satisfied. This includes the retention of records of the lender's disbursement of Stafford and PLUS loan funds to the school for delivery to the borrower, in connection with loans where the claim was paid to the lender on or after July 1, 2008.

7. MAINTENANCE OF RECORDS

All loans submitted for assignment are the guaranty agency's responsibility until all file level errors are resolved. The mere act of submitting records for assignment does not constitute a successful assignment. Records must also continue to be maintained by the guaranty agency, as required by 34 CFR 682.414. These records will enable the guaranty agency to identify the location of loans for borrowers making inquiries regarding the status of their accounts, and to reassume the guarantee, if necessary.

8. ACCOUNT ADJUSTMENTS AND INVOLUNTARY PAYMENTS

Account Adjustments

Refunds required under 34 CFR 682.402(c)(8)(C) and 682.402(c)(9)(xxi)(D) must be processed before the loan is assigned to the Department.

Payments received on accounts which are pending acceptance by the Department should be processed as any other payment received by the guaranty agency. Once the guaranty agency receives notification from the Department that a loan(s) has been accepted for assignment, the guaranty agency should prepare a listing of all **interim period payments** (payments received by the guaranty agency between the date a loan was placed on an assignment file or Assignment Form, and the date the loan was accepted for assignment by the Department, as indicated by the date of the Load Data Base Report) that were received on the accepted loan(s). The list must include the Borrower's SSN, Borrower's Name, Payment Date, and Payment Amount. This listing should be mailed to the following address, so that the proper adjustments to the account are made:

disabilityinformation@nelnet.net (use a password-protected .zip file and provide the password in a separate e-mail)

U.S. Department of Education
121 South 13th Street, Suite 201
Lincoln, NE 68508

Payments received on an account *after* it has been accepted for assignment by the Department should be returned to the sender.

When processing your Weekly Collection (Offset/Reversal) Record files, in connection with the Treasury Offset Program, if you cannot post an offset or a reversal to an account because it has been assigned to the Department, you must send a listing to the TPD Servicer at the Lincoln address above. For offsets, the

**Guaranty Agency Total and Permanent Disability Discharge Assignment Procedures
Attachment to June 2013 Electronic Announcement (Updated October 2013)**

listing must include the Borrower's SSN, Borrower's Name, Effective Date of Offset, and Offset Amount. For reversals, the listing must include the Borrower's SSN, Borrower's Name, Effective Date of Reversal, Reversal Amount and information concerning how the original offset was applied to the account by the guaranty agency: i.e., how much was applied to the offset fee, interest, and principal on the account and an indicator as to whether the reversal is a full or partial reversal. **The guaranty agency should not send a check to the Department in connection with an offset, even if the effective date of the offset is after the date the Department accepted assignment of the loan(s).**

Letters may be sent to the TPD Servicer relative to other adjustments that must be made to a loan accepted for assignment by the Department (e.g., an incorrect outstanding amount was provided during the assignment process).

Involuntary Payments

Under 34 CFR 682.402(c)(3), a lender must suspend collection activities after receiving notice of the borrower's total and permanent disability request via the Loan Holder Notification File. The lender and the guaranty agency should suspend all collection activities and should not take steps to initiate litigation, AWG, or Federal or State offset for the period during which the TPD servicer is reviewing the borrower's disability discharge request.

We agree, however, that if certain collection activities are in place when a borrower applies for a total and permanent disability discharge, it would be administratively burdensome and costly to require the guaranty agency to cease those collection activities only to restart them if the borrower does not qualify for the discharge. Particularly in the case of a borrower who is employed and is subject to administrative wage garnishment or a judgment, it is unlikely that the borrower will qualify for the discharge. Therefore, in cases where a judgment against the borrower has already been obtained, the guaranty agency is not required to suspend enforcement of the judgment or vacate the judgment during the review period. The judgment should be transferred to the Department when the loan is assigned. Similarly, if an AWG wage withholding order was already in place when the borrower submitted the application for disability discharge, the guaranty agency is not required to withdraw the wage withholding order during the review period. If Federal or State Offset has already been initiated by the Federal or State government, the guaranty agency is not required to halt the Offset during the review process.

After a guaranty agency receives the determination through the Loan Holder Notification File that the application supports the conclusion that the borrower is totally and permanently disabled, the guaranty agency must send a record on its next Weekly Update file to inactivate the account from the Treasury Offset Program or send an AWG Stop order to the employer.

Return of Involuntary Payments

If you receive an involuntary payment on an account after assignment to the Department, you may return the payment *if* you determine that the involuntary payment resulted from your error.

For example, after an account is accepted for assignment by the Department, you discover that the account was not properly removed from the Federal Offset file. You receive a Federal Offset. You may refund the offset. Be sure to report the refund on the Weekly Update file.

Balance Adjustments for Treasury Offset or Reversal

**Guaranty Agency Total and Permanent Disability Discharge Assignment Procedures
Attachment to June 2013 Electronic Announcement (Updated October 2013)**

If a guaranty agency receives an offset or reversal, through the Treasury Offset Program, send a fax or letter requesting adjustment of the loan balance, including both the date and the amount of the offset or reversal, to:

U.S. Department of Education
121 South 13th Street, Suite 201
Lincoln, NE 68508

FAX: 303/696-5250

9. LOAN RETURN

If a guaranty agency feels that a loan should be returned, the agency should write to the TPD Servicer to explain the circumstances. As you know, there are very few instances where the Department will return a debt to a guaranty agency but there may be circumstances that warrant its return.

E-mail: disabilityinformation@nelnet.net

U.S. Department of Education
121 South 13th Street, Suite 201
Lincoln, NE 68508

Phone: 888/303-7818 **Note:** If the borrower is hearing-impaired, he or she may web chat with a representative by visiting www.disabilitydischarge.com and clicking “Chat Now”.

Fax: 303/696-5250

10. CORRESPONDENCE RECEIVED AFTER ASSIGNMENT

All general correspondence (e.g., letter from a borrower inquiring about his or her account, a closed school discharge application, etc.) received by a guaranty agency in connection with a loan that has been accepted for assignment by the Department should be forwarded to:

U.S. Department of Education
121 South 13th Street, Suite 201
Lincoln, NE 68508

Guaranty agencies should send all Closed School, Ability to Benefit (ATB), ATB Appeal, Unauthorized Signature, and Unpaid Tuition Refund applications and/or correspondence that is received on a loan that has been accepted for assignment by the Department to the TPD Servicer. Additionally, please forward all death notices and total and permanent disability forms that are received on a loan that has been assigned to the Department to the TPD Servicer. Address and contact information is as follows:

U.S. Department of Education
121 South 13th Street, Suite 201
Lincoln, NE 68508

**Guaranty Agency Total and Permanent Disability Discharge Assignment Procedures
Attachment to June 2013 Electronic Announcement (Updated October 2013)**

Phone: 888/303-7818 **Note:** If the borrower is hearing-impaired, he or she may web chat with a representative by visiting www.disabilitydischarge.com and clicking "Chat Now".

Fax: 303/696-5250

11. BANKRUPTCY AND LITIGATION

Guaranty agencies should send all bankruptcy and litigation documents that are received on an account that has been accepted for assignment by the Department. Address and contact information is as follows:

E-mail: disabilityinformation@nelnet.net

U.S. Department of Education
121 South 13th Street, Suite 201
Lincoln, NE 68508

Fax: 303/696-5250

Guaranty agencies should fax time-sensitive documents, call the TPD Servicer to notify the TPD servicer of the fax, and mail the original documents to the appropriate individual.